

IN THE MATTER OF APPLICATION NO. 24398)
FILED BY JOSEPH B. KEY TO STORE THE)
WATERS OF IOWA CREEK IN LANDER COUNTY,)
NEVADA.)

R U L I N G

GENERAL:

Application 24398 was filed March 8, 1968, by Joseph B. Key to store 524 acre-feet of Iowa Creek waters for irrigation purposes, to be diverted within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T. 23 N., R. 44 E., M.D.B. & M., with a period of use from January 1st to December 31st of each year, a diversion of 1.441 c.f.s. and a place of use the same as in the Carico Creek Decree.

A protest to Application 24398 was filed August 6, 1968, by Henry Filippini for the following reasons:

1. All of the waters of Iowa Creek have been heretofore appropriated.
2. The Protestant holds certificated water rights prior to this application and will be deprived thereof if the application is granted.
3. Key's application for 1.441 c.f.s. is identical with the diversion decreed in the Carico Creek Decree and he is wrongfully attempting to amend the Decree.
4. That the Applicant is wrongfully attempting to obtain a water right without properly applying therefore, and for a time in violation of the Decree and the Law of Nevada.

Henry Filippini is the owner of record of Certificate 4710, issued April 9, 1958, for 400 acre-feet per season with a period of use from January 1st to December 31st of each year from Carico Creek and tributaries.

Records of this office indicate that the only water right of record on Iowa Creek is as defined in the Carico Creek Decree. The limit and extent of this right is 1.441 c.f.s. for the irrigation of 173.43 acres of harvest and 2.57 acres for diversified pasture. There is also a limitation of 524.14 acre-feet per season; the season being March 15 to September 15 for the harvest right and March 15 to June 12, for the pasture right. A provision is made in the Decree for the use of water for stock and domestic purposes. Article X of the Decree provides that users shall not be required to take the amount of water allotted in a continuous flow but may accumulate the same within the seasonal limits, with the approval of the Water Commissioner subject to the control and direction of the

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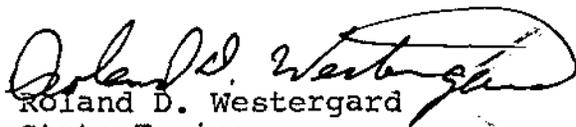
State Engineer. Joseph B. Key is the successor in interest to the decreed rights of Joe Phillipi.

Field investigations were made of Iowa Creek on February 27, 1968, and again on March 14, 1968.

RULING

Application 24398 is herewith denied on the grounds that decreed water can be accumulated but the rate of diversion and period and place of use would be limited as in the Decree. Accumulation and storage outside the limits of the Decree would adversely affect existing rights.

Respectfully submitted,


Roland D. Westergard
State Engineer

RDW:SH:kjm

Dated this 5th day of
May, 1970.